

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #13	CCRB Case #: 201706697	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/15/2017 11:00 PM	Location of Incident: [REDACTED]	Precinct: 43	18 Mo. SOL 2/15/2019	EO SOL 2/15/2019	
Date/Time CV Reported Wed, 08/16/2017 8:39 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/16/2017 8:39 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Sean Noce	3309	[REDACTED]	PSA 8
2. POM Daniel Vargas	06644	[REDACTED]	PSA 8
3. POM Juan Germanfrias	25452	[REDACTED]	PSA 8

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Perry Jean	27174	[REDACTED]	PSA 8
2. LT Miguel Lopez	00000	[REDACTED]	PSA 8

Officer(s)	Allegation	Investigator Recommendation
A.SGT Sean Noce	Abuse: Sergeant Sean Noce stopped the vehicle in which [REDACTED] was an occupant.	[REDACTED]
B.SGT Sean Noce	Force: Sergeant Sean Noce pointed his gun at [REDACTED]	[REDACTED]
C.POM Daniel Vargas	Force: Police Officer Daniel Vargas pointed his gun at [REDACTED]	[REDACTED]
D.POM Juan Germanfrias	Force: Police Officer Juan Germanfrias pointed his gun at [REDACTED]	[REDACTED]

Case Summary

On August 16, 2017, [REDACTED] filed this complaint with the CCRB via telephone.

On August 15, 2017, [REDACTED] was driving with an unidentified friend in a Zip Car in the vicinity of [REDACTED] in the Bronx. [REDACTED] was stopped by an unmarked vehicle containing Sergeant Sean Noce, Police Officer Daniel Vargas, and Police Officer Juan Germanfrias, all of the PSA 8 anti-crime team (**Allegation A**). Sgt. Noce, PO Vargas, and PO Germanfrias were responding to a call for possible shots fired in the vicinity of [REDACTED] and observed the passenger in [REDACTED] vehicle litter out of the window. As Sgt. Noce, PO Vargas and PO Germanfrias approached [REDACTED] vehicles, they allegedly had their firearms drawn and pointed at [REDACTED] vehicle (**Allegation B, Allegation C, Allegation D**).

No arrests were made or summonses issued as a result of this incident.

There is no video evidence in regards to this case.

Mediation, Civil and Criminal Histories

- [REDACTED] declined to mediate this complaint.
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- As of October 24, 2017, a FOIL request to the Office of the Comptroller is pending.

Civilian and Officer CCRB Histories

- § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
- Sgt. Noce has been a member of service for fourteen years and has three previous complaints, with no substantiations. The prior cases do not reflect a pattern applicable to this case.
- PO Vargas has been a member of service for three years and has one previous case, with no substantiations. The prior case does not reflect a pattern applicable to this case.
- PO Germanfrias has been a member of service for four years and has no previous complaints.

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant Sean Noce stopped the vehicle in which [REDACTED] was an occupant.

[REDACTED] stated that he was looking for parking after driving home from [REDACTED] in Yonkers, with his friend in the front passenger seat, who was eating sunflower seeds and throwing the shells out the window as [REDACTED] drove. [REDACTED] declined to provide his friend's name. [REDACTED] was driving below the speed limit, because he was looking for parking. [REDACTED] observed officers from the PSA 8 anti-crime team speaking to a group of individuals on the

corner of [REDACTED] in the Bronx, where [REDACTED] was stopped at a red light. [REDACTED] recognized the officers from previous interactions with them. When the officers observed [REDACTED] they walked away from the people they were interacting with, entered two unmarked police vehicles, and pulled [REDACTED] over. An officer, identified by the investigation as Sgt. Sean Noce, approached [REDACTED]'s front driver's window and told him that he was being pulled over because of shots fired in the area, and because [REDACTED] passenger was littering out of the window **(01 Board Review)**.

[REDACTED] declined to provide his passenger's name to the investigation. None of the officer's noted the passenger's name. No arrests were made in connection with this incident. Therefore, the investigation was unable to obtain a statement from [REDACTED] passenger.

§ 87(2)(g)

[REDACTED] Both PO Vargas and PO Germanfrias stated that they were the operator, and thus made the U-Turn to pursue [REDACTED] and pull him over. The officers responded to a radio run for possible shots fired in the vicinity of [REDACTED] and observed a vehicle speeding away from that address. As the vehicle sped away from the location, all of the officers observed the passenger in the vehicle throw something out of the window. The officers did not know what the object was, and the object was never recovered. [REDACTED] was pulled over because he was speeding, and because his passenger littered from the vehicle.

Sgt. Noce **(12 Board Review)**, PO Vargas **(11 Board Review)**, and PO Germanfrias **(10 Board Review)** all documented in their memo books that they were responding to a call for possible shots fired in the area of [REDACTED] and stopped [REDACTED] vehicle.

Officers may stop a vehicle if there is probable cause of a traffic infraction or reasonable suspicion that the vehicle or an occupant has been involved in a crime. *People v. Robinson*, 97 N.Y.2d 341 (2001) **(09 Board Review)**.

No person shall throw, dump, deposit or place, or cause to be thrown, dumped, deposited or placed upon any highway, or within the limits of the right of way of such highway, or upon private lands adjacent thereto, any refuse, trash, garbage, rubbish, litter or any nauseous or offensive matter. New York State Vehicle and Traffic Law, Section 1220 **(08 Board Review)**.

§ 87(2)(g)

Allegation B- Force: Sergeant Sean Noce pointed his gun at [REDACTED]

Allegation C- Force: Police Officer Daniel Vargas pointed his gun at [REDACTED]

Allegation D- Force: Police Officer Juan Germanfrias pointed his gun at [REDACTED]

[REDACTED] stated that the officers exited their vehicle with their firearms drawn, approached his vehicle with their firearms pointed at him in the driver's seat, and remained as such for the entirety of the interaction **(01 Board Review)**.

Sgt. Noce stated that he did not recall if he had his firearm drawn and pointed at [REDACTED] during the incident, and did not see any other officer with their firearm drawn or pointed **(02 Board Review)**.

PO Vargas **(03 Board Review)** and PO Germanfrias **(04 Board Review)** stated that they did not have their firearm drawn or pointed during this incident, and did not see any officer with their firearms drawn or pointed.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad: 13

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date